

§ 1115.23

(e) *Orders issued under section 15 (c) and/or (d).* The failure to comply with an order issued under section 15 (c) and/or (d) of the CPSA is a prohibited act within the meaning of section 19(a)(5) of the CPSA (15 U.S.C. 2068(a)(5)).

(f) *Consequences of engaging in prohibited acts.* A knowing violation of section 19(a) of the CPSA subjects the violator to a civil penalty in accordance with section 20 of the CPSA (15 U.S.C. 2069). “Knowing,” as defined in section 20(c) of the CPSA (15 U.S.C. 2069(c)), means the having of actual knowledge or the presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations. A knowing and willful violation of section 19(a), after the violator has received notice of noncompliance, subjects the violator to criminal penalties in accordance with section 21 of the CPSA (15 U.S.C. 2070).

Subpart C—Guidelines and Requirements for Mandatory Recall Notices

SOURCE: 75 FR 3371, Jan. 21, 2010, unless otherwise noted.

§ 1115.23 Purpose.

(a) The Commission establishes these guidelines and requirements for recall notices as required by section 15(i) of the Consumer Product Safety Act, as amended (CPSA) (15 U.S.C. 2064(i)). The guidelines and requirements set forth the information to be included in a notice required by an order under sections 12, 15(c), or 15(d) of the CPSA (15 U.S.C. 2061, 2064(c), or 2064(d)). Unless otherwise ordered by the Commission under section 15(c) or (d) of the CPSA (15 U.S.C. 2064(c) or (d)), or by a United States district court under section 12 of the CPSA (15 U.S.C. 2061), the content information required in this subpart must be included in every such notice.

(b) The Commission establishes these guidelines and requirements to ensure that every recall notice effectively helps consumers and other persons to:

(1) Identify the specific product to which the recall notice pertains;

(2) Understand the product’s actual or potential hazards to which the recall notice pertains, and information relating to such hazards; and

(3) Understand all remedies available to consumers concerning the product to which the recall notice pertains.

§ 1115.24 Applicability.

This subpart applies to manufacturers (including importers), retailers, and distributors of consumer products as those terms are defined herein and in the CPSA.

§ 1115.25 Definitions.

In addition to the definitions given in section 3 of the CPSA (15 U.S.C. 2052), the following definitions apply:

(a) *Recall* means any one or more of the actions required by an order under sections 12, 15(c), or 15(d) of the CPSA (15 U.S.C. 2061, 2064(c), or 2064(d)).

(b) *Recall notice* means a notification required by an order under sections 12, 15(c), or 15(d) of the CPSA (15 U.S.C. 2061, 2064(c), or 2064(d)).

(c) *Direct recall notice* means a notification required by an order under sections 12, 15(c), or 15(d) of the CPSA (15 U.S.C. 2061, 2064(c), or 2064(d)), that is sent directly to specifically-identified consumers.

(d) *Firm* means a manufacturer (including an importer), retailer, or distributor as those terms are defined in the CPSA.

(e) *Other persons* means, but is not limited to, consumer safety advocacy organizations, public interest groups, trade associations, industry advocacy organizations, other State, local, and Federal government agencies, and the media.

§ 1115.26 Guidelines and policies.

(a) *General.* (1) A recall notice should provide sufficient information and motivation for consumers and other persons to identify the product and its actual or potential hazards, and to respond and take the stated action. A recall notice should clearly and concisely state the potential for injury or death.

(2) A recall notice should be written in language designed for, and readily understood by, the targeted consumers or other persons. The language should be simple and should avoid or minimize